



US Express Mail No. EV138489285US

Docket No. TIP0009USA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Inge DIERYNCK, Christiaan)
Hubert Simono ROELANT, Rudi)
Wilfried Jan PAUWELS, Koenraad)
Lodewijk August VAN ACKER, and) Art Unit:
Jan DE KERPEL) 1636
Serial No. : 09/633,232)
Filed : August 4, 2000)
Title : Use of Colored Metal Binding Proteins)
Examiner : Terry Alan McKELVEY)

#6

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Jesús Juanós i Timoneda
(Name of applicant, assignee, or Registered Representative)

(Signature)

November 1, 2002

(Date of Signature)

Honorable Commissioner of Patents
Washington, D.C. 20231

Amendment and Response "A"

Dear Sir:

In response to the Office Action of July 2, 2002, (hereinafter the "Restriction Requirement") Applicants elect, subject to the provisions concerning linking claims and traversal set forth below, Group I comprising claims 1-10 and 12-20.

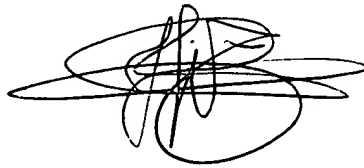
The Restriction Requirement states at p. 3 that "Applicants must also elect a single invention which is the product or method drawn to one specific apo metal binding protein (such as one of the claims 17-20 proteins) to which the claims will be restricted." (Hereinafter the "restriction in terms of a specific apo metal binding protein"). No further information, explanation, classification, or reasoning is provided in the Restriction Requirement concerning this assertion. To provide a complete response, Applicants provisionally elect with traverse, and to the extent that the foregoing quoted paragraph is understood, the protein azurin with the following reasons for the present traversal:

- a) The Restriction Requirement does not provide a *prima facie* showing that there would be a serious burden if restriction in terms of a specific apo metal binding protein were not required. In particular, the Restriction Requirement does not provide any explanation of separate classification, or separate status in the art, or a different field of search as defined in the MPEP. *See, e.g.*, M.P.E.P. § 803, p. 800-4 (Aug. 2001).
- b) The Restriction Requirement does not identify whether the restriction concerning a specific apo metal binding protein requires the election between distinct inventions, or an election between independent inventions, such as an election of species.
- c) The restriction concerning a specific apo metal binding protein includes claims that recite Markush language or variants thereof, and also at least one claim that recites only a nitrite reductase (claim 19). This feature of the restriction concerning a specific apo metal binding protein further deprives Applicants of an actual knowledge on the nature, characteristics and bounds of the purportedly asserted restriction.

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Applicants respectfully request favorable consideration of the present Amendment and
Response to place the present application in condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "J. Juanós i Timoneda", written over a horizontal line.

By: Jesús Juanós i Timoneda, PhD
Reg. No. 43,332

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Dated: *November 1, 2002*